



HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

THE CITY OF NEW YORK

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APPLICATION DENIED

SO ORDERED *Vernon S. Broderick*

VERNON S. BRODERICK

U.S.D.J. April 12, 2024

Via CM/ECF

Honorable Vernon S. Broderick
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Courtroom 518
New York, New York 10007

Because Defendants have not yet filed their motion to dismiss, their motion to stay all discovery pending my ruling on Defendants' motion to dismiss is premature. Accordingly, the request to stay is DENIED without prejudice to refile after Defendants file their motion to dismiss. The Clerk of Court is respectfully directed to terminate the open motion at Doc. 32.

Re: *Akoma v. New York City Health and Hospitals Corporation, et al.*
Case No. 1:23-CV-10181-VSB
Law Dep't File No. 2023-110648

Dear Judge Broderick:

I am an Assistant Corporation Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, representing Defendants, the New York City Health and Hospitals Corporation, doing business as NYC Health + Hospitals, and the Bellevue Hospital Center Catheter Lab (collectively, "Defendants"), in the above-referenced matter. In accord with Your Honor's Individual Rules and Practices, I write to respectfully request that all discovery-related deadlines, including the parties' respective Rule 26 disclosures, be stayed pending the Court's ruling on Defendants' anticipated Motion to Dismiss the Amended Complaint, which, per the Court's so-ordered Stipulation of April 2, 2024, Defendants must file by April 26, 2024. Plaintiff, Okechukwu Akoma ("Plaintiff"), consents to the requested stay, but disagrees with Defendants' characterization of their anticipated motion as "hav[ing] substantial grounds."

Under Federal Rule of Civil Procedure 26(c), "a district court may stay discovery during the pendency of a motion to dismiss for 'good cause' shown." *Hollins v. U.S. Tennis Ass'n*, 469 F. Supp. 2d 67, 78 (E.D.N.Y. 2006). This Court has previously held that a stay of discovery pending resolution of a potentially dispositive motion is appropriate "where the motion appear[s] to have substantial grounds or, stated another way, do[es] not appear to be without foundation in law." *Johnson v. N.Y. Univ. Sch. of Educ.*, 205 F.R.D. 433, 434 (S.D.N.Y. 2002) (internal quotation marks and citations omitted) (alterations in original); *see also Thrower v. Pozzi*, No. 99 CIV. 5871 (GBD), 2002 U.S. Dist. LEXIS 1035, 2002 WL 91612, at *7 (S.D.N.Y. Jan. 24, 2002) (explaining that district courts may "stay discovery when resolution of a preliminary matter may dispose of the entire case").

Here, Defendants will be filing a potentially case-dispositive motion to dismiss, which will re-raise most of the arguments made in Defendants' motion to dismiss Plaintiff's original complaint. *See Tsinberg v. City of New York*, No. 20 Civ. 749 (PAE) (SLC), 2020 U.S. Dist. LEXIS 217002, *2–3 (S.D.N.Y. Nov. 19, 2020) (“The Court finds that there is good cause to stay discovery pending a ruling on the Motion for Dismiss because granting the Motion to Dismiss could dispose of the entire case” (internal citation omitted)). Additionally, this case is still at a preliminary stage, with no discovery having yet been conducted. The circumstances accordingly favor a stay.

For the reasons stated herein, Defendants respectfully request that their application for a stay be granted and that all discovery-related deadlines be stayed pending the resolution of their anticipated Motion to Dismiss the Amended Complaint.

Respectfully submitted,

/s/

Zachary T. Ellis

Assistant Corporation Counsel

cc: Susan Lori Adler (via CM/ECF)